

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

FELICIA BURNEY,

Plaintiff,

v.

VARIETY WHOLESALERS, INC.,
Individually and d/b/a/ ROSES
STORES,

Defendant.

CIVIL ACTION NO. 5:20-cv-28 (MTT)

ORDER

On October 11, 2021, Defendant Variety Wholesalers, Inc., moved for summary judgment. Doc. 25. The defendant's motion is **DENIED**.

A court must grant summary judgment "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "[C]redibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of a judge The evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor." *Anderson*, 477 U.S. at 255.

The plaintiff argues that the video evidence in this case permits an inference that the defendant's employees had actual knowledge of the spill that caused the plaintiff's fall. Doc. 37 at 4. The Court has reviewed the video evidence and agrees. Under Georgia law, a jury is entitled to draw its own conclusions from video evidence and to reject any alternative explanation offered by the defendant. *Gonzalez v. State*, 359 Ga.

App. 147, 151 (2021). Accordingly, the video evidence is sufficient to establish a jury question, and summary judgment is **DENIED**.

SO ORDERED, this 24th day of January, 2022.

S/ Marc T. Treadwell
MARC T. TREADWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT